

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**SABLE NETWORKS, INC. AND
SABLE IP, LLC,**

Plaintiffs,

-V-

CLOUDFARE, INC.,

Defendant.

6:21-cv-00261-ADA

CLAIM CONSTRUCTION ORDER

Before the Court are the parties' claim construction briefs. On October 2, 2022, the Court provided the parties with its Preliminary Claim Constructions, and on October 3, 2022, the Court held a *Markman* hearing. The Court issues this Order to memorialize the Court's final claim construction rulings for the parties, and to inform the parties that the Court plans to issue a more-detailed Order explaining its analysis in due course. The deadline to file any objections to the undersigned's claim construction rulings (pursuant to Federal Rules of Civil Procedure 59 and 72) do not need to be filed until 14 days after that more fulsome Order is entered upon the docket.

The Court construes the terms of U.S. Patent No. 6,954,431 (the '431 Patent) as follows:

Claim Term, Phrase, or Clause	Court's Construction
based on a characteristic	“based on a characteristic associated with the microflow”
Claims 1 and 10	
means for determining a capacity of a buffer containing a microflow based on a characteristic	Indefinite. Lack of corresponding structure.
Claim 10	
weighting factor	“how much of a portion of an available rate a micro-flow is able to be delegated as compared to other micro-flows”

Claim Term, Phrase, or Clause	Court's Construction
Claims 16, 19, 21, 22, 25, 26 a delay variation substructure configured to provide a buffer value to dampen jitter in a transmission of the microflow Claim 19	Plain and ordinary meaning. Not governed by pre- AIA 35 U.S.C. § 112, ¶ 6.
the predetermined value for the microflow timeout period substructure comprises is less than 32 seconds Claim 29	“the predetermined value for the microflow timeout period substructure is less than 32 seconds”
aggregate flow Claims 25 and 26	Plain and ordinary meaning.
label switched path(s) Claim 26 and 27	“a predefined path along a set of label switches to transport one or more traffic flows or packets”
badness factor Claims 9 and 29	Plain and ordinary meaning.
undesirable behavior Claims 3, 9 and 29	“flows that consume excessive network bandwidth”
based at least partially upon the set of behavioral statistics Claims 9 and 29	“based at least partially upon the set of behavioral statistics from a single flow”

SIGNED this 17th day of October, 2022.



DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE